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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,987	03/05/2002	George Kramerich	47276-00014USPT	2871
7590	03/01/2005			EXAMINER
Oppenheimer Wolff & Donnelly LLP ATTN: Craig J. Lervick 45 South Seventh Street Suite 3300 Minneapolis, MN 55402			VAUGHN JR, WILLIAM C	
			ART UNIT	PAPER NUMBER
			2143	
			DATE MAILED: 03/01/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/936,987	KRAMERICH ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	William C. Vaughn, Jr.	2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 15 November 2004.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1 and 3-15 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1, 3, 4, 5, 7-9, 12-14 is/are rejected.  
 7) Claim(s) 6, 10, 11 and 15 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

1. This Action is in regards to the Amendment and Response received on 15 November 2004.
2. The application has been examined. Claims 1 and 3-15 are pending.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1 and 3-15 have been considered but are moot in view of the new ground(s) of rejection. Applicant's arguments are deemed moot in view of the following new grounds of rejection as explained here below, necessitated by Applicant's substantial amendment (i.e., *a traffic database for storing said pedestrian traffic... for transferring data among the traffic database, the at least one database for storing non-traffic...*) to the claims which significantly affected the scope thereof.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3-5, 7-9 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dedrick, U.S. Patent No. 5,717,923 in view of Fox et al. (Fox), U.S. Patent No. 5,832,456 and in further view of Montero, U.S. Patent No. 6,133,912.

6. Regarding independent claims 1 and 3, (e.g., exemplary independent claim 1). Dedrick discloses the invention substantially as claimed. Dedrick discloses a pedestrian traffic indexing system comprising a plurality of traffic monitors at a plurality of provider sites [see Dedrick, Col. 3, lines 49-58 and Col. 4, lines 5-67 and Col. 10, lines 52-67]; *a server connected to said connected to said traffic monitors to receive pedestrian traffic data from said traffic monitors* [see Dedrick, abstract] *generating national retail traffic index data by processing data stored in the at least one database form storing non-traffic related data* [see Dedrick, Col. 10, lines 33-65]; storing and a database receiving said indexes from said processors and storing indexes [see Dedrick, Col. 10, lines 33-51]; and a data communications connection through which users may access said database [see Dedrick, Figures 2 thru 4, Col. 2, lines 56-62]. However, Dedrick does not explicitly discloses a traffic database for storing the pedestrian traffic data, at least one database for storing non-traffic related data, a view creator for generating national retail traffic index data by processing data stored in the traffic database and the at least one database for storing non-traffic related data, a national retail traffic index data mart for storing the national retail traffic index data and a

7. In the same field of endeavor, Fox discloses (e.g., system and method for forecasting future retail performance). Fox discloses a traffic database for storing pedestrian traffic data [see Fox, abstract, item 302].

8. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Fox's teachings of a system and method for forecasting future retail performance with the teachings of Dedrick, for the purpose of analyzing future performance by a consumer. However.

Dedrick-Fox do not explicitly disclose a view creator for generating national retail traffic index data by processing data stored in the traffic database and the at least one database for storing non-traffic related data.

9. In the same field of endeavor, Montero discloses (e.g., method of delivering information over a communication network). Montero discloses a view creator for generating national retail traffic index data by processing data stored in the traffic database and the at least one database for storing non-traffic related data [see Montero, Figure 1, Col. 4, lines 29-62].

10. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Montero's teachings of a method of delivering information over a communication network with the teachings of Dedrick-Fox for the purpose of allowing for updated demographic information and purchase habits to be easily identifiable by a user [see Montero, Col. 2, lines 40-65].

11. Regarding dependent claims 4, 5, 7-9 and 12-14, the limitations of these claims are taught within the figures and disclosure of Dedrick-Fox.

#### *Allowable Subject Matter*

12. Claims 6, 10, 11 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

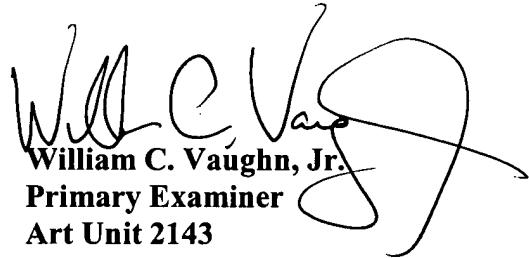
13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Vaughn, Jr. whose telephone number is (571) 272-3922. The examiner can normally be reached on 8:00-6:00, 1st and 2nd Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William C. Vaughn, Jr.  
Primary Examiner  
Art Unit 2143

WCV